

DIVERSITY AND THE BAR

A PUBLICATION OF THE OFFICE OF LEGAL SERVICES, ACCESS AND FAIRNESS PROGRAMS

DIVERSITY

STARTS AT THE TOP ...AND THE BOTTOM

Policy, as a statement of values, influences the direction of so much that happens in society. Understanding this, in September 2004 the State Bar Board of Governors, in its Long Range Strategic Plan, took note of the 2001 survey of the Bar's membership, which reported as follows:

State Bar of California Members (Attorneys)

Ethnic/Racial Background	1991	2001	2000
White	91.0%	83.0%	46.7%
Asian	3.0%	6.0%	11.2%
Latino/Hispanic	3.0%	3.7%	32.4%
African American	2.0%	2.4%	6.7%
Gender			
Male	74%	68%	49.8%
Female	26%	32%	50.2%

And in its Vision Statement, it noted its long-term aspiration for the California Bar.

"The legal system will reflect the diversity of the State and that diversity will be encouraged through a bar exam that provides equal access to admission to the profession."

Nearly five years have passed since that study which showed a disproportionate imbalance between minority attorneys and the minority communities in the general population. The 2001 report did establish some growth, particularly among Asian attorneys, but the growth rate for Latino/Hispanics and African American lawyers was small.

Five years will have passed by 2006. It will be a good time for another demographics study.

But based on what I sense, I expect that we'll find a declining percentage in the State's overall Caucasian population, but very little growth among Latino/Hispanic and African American lawyers.

Despite all the talk and good will we have not done enough to change those numbers.

Now more than ever we must develop new strategies so that some time in my lifetime we'll see a profession that better reflects the diverse populations in our state.

While one can argue that lawyer diversity and access to justice are closely aligned, the State Bar has been very careful to run its diversity programs

BY JOHN VAN DE KAMP
PRESIDENT



through its Center for Access and Fairness, which is supported by voluntary contributions, primarily from the Elimination of Bias check off on the Bar dues statement.

Given the need for new strategies, in my short year as Bar President, I've championed School Outreach projects. I've asked every local bar association to organize efforts to send their members into schools, to elementary schools, to high schools, colleges and ultimately to law schools--with particular emphasis on those schools with minority students of promise. The goal: to attract young people of color to the profession, and to work with them through law schools and admission.

I've sent out a summary of the many high school projects that have been developed here in California by various local minority and specialty bar associations. Some of them aim at the general student population. These are helpful in developing respect for the law and its institutions. Others are aimed at kids from disadvantaged communities--in an attempt to expand the pipeline of students from diverse backgrounds entering our profession. They are available from our Office of Bar Relations, contact Leanna Dickstein at (213) 765-1337, email: leanna.dickstein@calbar.ca.gov.

Early on as I looked at this, I took special note of the BASF "School to College" program and the Charles Houston Bar Association mentoring program. Later, as I traveled around the state, I was impressed by the number and diversity of school programs sponsored by other bar associations, which brought lawyers into our schools.

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The State Bar
of California | Office of Legal Services,
Access & Fairness Programs

MESSAGE FROM THE CHAIRS

CWIL



PAMELA WAGNER
CHAIR

I have had the great honor of being the chair of the Committee on Women in the Law, 2004 – 2005, as well as vice-chair 2003-2004. Throughout my time on the committee, I have been impressed and inspired by the quality of the committee members and their dedication and devotion to women lawyers' issues. I leave the committee knowing that it is in good hands with the incoming officers, Pearl Mann as Chair, and Tamara Dahn as Vice-Chair.

In the past year alone, this committee has presented or produced:

- Nine law school outreach programs, consisting of diverse women attorneys visiting law schools and describing what it's like practicing law;
- A full-day "Do You Want to Teach Law?" conference at University of Santa Clara Law School;
- A stress management program at the University of San Francisco Law School;
- Three Appointments Workshops statewide, in conjunction with the other Access & Fairness Committees, describing the State Bar structure and the various entities within the State Bar, as well as tips and advice on how to fill out the appointment application;
- Three Gender Bias programs at Placer County Bar Association, JFUK Law School and UC Davis King Hall, addressing Glass Ceiling issues, and
- Two programs at the Annual Meeting in San Diego.

Our committee has been busy with various projects, including MCLE presentations, completing the FEHA brochure, pledge project, bar exam project, ethics issues and discovery accommodations, just to name a few. These projects have been possible due to our committee members' willingness to volunteer and follow through. I have been incredibly privileged to be on the same committee with these talented people who come from varied backgrounds and have amazing accomplishments both prior to and after becoming attorneys. Not to brag too much but our committee members are truly wonderful people. If you are curious by what I mean or even if you would like to visit us, let me extend an open invitation to everyone to attend our meetings. We really have a lot of fun, develop friendships, and get some work done, too. To find out when these meetings are, please contact Pat Lee of the State Bar of California at Patricia.Lee@calbar.ca.gov.

During this last year, CLPD sponsored many programs that supported the education, advancement, and elevation of minorities within the state of California. We have also continued to participate as liaisons on the Judicial Council's Access and Fairness Advisory Committee. As a result of this collaboration with the Judicial Council, we assisted in the updated revision of Rule of Court 989.3 and Form MC-410, which provides for accommodations in the court. We also participated on other subcommittees of the Judicial Council such as Jury Accommodations, etc.

At the 2005 Pathways to Justice, our committee presented two MCLE programs that were extremely popular with the attendees. Both the "Interacting and Communicating with Persons with Disabilities" and "Disability Access Issues in the Courts" had standing room only attendance. Our Pledge Project has also more than doubled the number of participating law firms and organizations within the last ten years. Law firms and businesses are just beginning to realize how important it is to have employees who can relate to society and their clients. Lawyers

Additionally, the Committee participated in the recommendation of the 4th Annual Diversity Awards winners.

The Committee is currently exploring new topics, including the "New Face of Sexual Harassment"; employment issues that lesbian, gay, bisexual, and transgendered attorneys face in the workplace. Also, the Committee is focusing on the topic of flexible work schedules to help law firms improve attorney retention and reduce bias. This not only improves their diversity but also results in greater profits for firms by reducing turnover. The committee is currently working to develop a model flexible work schedule policy, and is presenting a panel on the subject at Annual Meeting.

We also are enjoying an influx of new members. I welcome Yoon Chang, Donna Coaxum, John Cumming, Sarah Schlehr, and Patricia Sturdevant to the incoming class. I know that they will contribute many new ideas and energize an already highly productive CWIL. Best wishes to them and to my current committee members.



LORRAINE WOODWARD
CHAIR

CLPD

with disabilities are able to bring this needed insight to these firms. Our bar exam project continues to be a success as the Committee on Bar Examiners have been extremely gracious in allowing us to collaborate with them on the issue of accommodations. We are currently developing a checklist and timetable for bar exam test takers.

Another area our committee has worked steadfastly on is ethical issues in discovery accommodation requests. Many hours have been spent conferring with experts and researching current statutes, rules and codes that provide for accommodations for people with disabilities outside the courthouse. A report and recommendations will be developed from this work. Also, our Outreach and Recruitment subcommittee has made several valuable contacts, through presentations at law schools, universities, and high schools.

Finally, at the September 2005 Annual Meeting in San Diego, our committee will be giving two MCLE presentations. These presentations are: "Issues in Disability Discrimination and Fair Housing Law" and "Tips for Representing Your Client..." Please join us in San Diego.



EMRC

ERIC BROOKS
CHAIR

The Ethnic Minority Relations Committee (EMRC) continued the great success of last year, with continued outreach to minority high school, college, and law school students who represent our best hope of a more diversified bar.

Also, as in past years, we welcomed the newest ethnic minority members of the State Bar at swearing-in ceremonies throughout the state.

In addition to the extensive outreach and recruiting efforts, EMRC will continue to work on several other projects aimed at providing attorneys of color with the support they need to succeed in the legal profession. EMRC continues to develop relationships with minority and local bar associations throughout the state to

remain apprised of the issues facing attorneys of color in the legal profession and to offer assistance whenever we can. EMRC also continues to cultivate relationships and synergies with the American Bar Association, the Administrative Office of the Courts, and the California Minority Counsel Program.

EMRC will be putting on two CLE programs at this year's Annual Meeting in San Diego. Both programs focus on EMRC's charge of presenting programs designed to maximize opportunities for ethnic minorities in the profession. The first program, entitled "Pioneers of the Legal Profession: Minority Attorneys Who Shattered Barriers to Diversify the Legal Profession," includes panelists who successfully navigated the challenges of the legal profession to become the first person of color to break down barriers. The second program, "Making It: The Road to Success for Minority Attorneys," offers a panel of experts to help train minority attorneys in how to overcome obstacles to career success and provide survival skills for today's legal environment.

I am very proud to be a part of such a wonderful committee and I am honored to volunteer as the chair. And as chair, I have enjoyed dealing with the various issues facing minority attorneys in California in 2005.

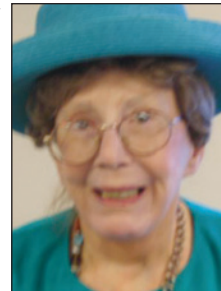
CSL

When I was sworn into the State Bar of California in 1961, after graduating from Hastings College of the Law, it was somewhat discouraging looking for a job. There were few women in law firms. I was fortunate to be hired as Research Attorney for Justice Thomas P. White of the California Supreme Court in 1960. In 1962, I left the Supreme Court to join the Santa Clara County District Attorney's Office and I remained there until 1974. I opened my own office in San Jose, then Walnut Creek, becoming a Certified Specialist in Family Law. After 25 years of solo practice, I finally closed my office to do all the things that I had postponed.

In my 34 years as a proud member of the State Bar of California, I have observed that senior lawyers (over 55 years of age) are a rich, often untapped resource of the communities where they reside and practice. Prior to my move to Riverside County, I assisted in setting up the Senior Section of the Contra Costa County Bar Association.

Senior Lawyers everywhere offer experience, wisdom, and time. They also face challenges, having less familiarity with technology, changes in the profession and perhaps diminishing skills. Understanding this, the Committee on Senior Lawyers has presented, for three consecutive years at Annual Meeting, programs on closing or selling a law practice and how mature attorneys can take advantage of their experience to seek employment and mitigate age discrimination. There are many other issues which aging attorneys face and the Committee on Senior Lawyers is charged with the task of bringing them to the attention of the Board of Governors and offering recommendations on solutions to these issues. As the outgoing Chair of this committee, I invite all attorneys to participate in the never-ending dialogue of what happens to maturing attorneys and how these issues should be addressed.

SUSANNAH CONVERY
CHAIR



I have enjoyed my four years on the Committee on Senior Lawyers and am thankful for the opportunity to serve my colleagues. I would like to recognize the outgoing members of this committee, Joyce Pierson and Gerry Richards, who have contributed so much to the development of educational programs. It has also been an honor to be the Chair of the committee and I want to thank all the very capable members for their support and enthusiastic participation.

COMMITTEE INFORMATION ONLINE

To access the Access & Fairness Committee information on the State Bar website, go to www.calbar.ca.gov. Click on "Attorney Resources," then "Committees and Commissions" and finally on "Standing Committees" for a list of committees. Select the committee of your choice. For assistance, contact the Office of Legal Services, Access & Fairness Programs at programdevelopment@calbar.ca.gov or (415) 538-2141.

MESSAGE FROM THE CHAIRS

CSOGID



EUGENE STUART
CHAIR

Due to the vagaries of scheduling, budget, and staffing, I will probably only get to write this one chair's report during my chairmanship of CSOGID. Since I only have this one shot, I might as well attempt to answer the question most often asked by our critics. Why? Why do we need a committee on sexual orientation and gender identity discrimination? Why should the State Bar be interested in such matters?

First, let me remind the readers that the activities of CSOGID, and all the Access and Fairness Committees, are supported by voluntary contributions from attorneys to address the elimination of bias in the legal profession. No mandatory dues support our attempts to ensure access and fairness in the treatment of Lesbian, Gay, Bi-sexual, and Transgender ["LGBT"] attorneys in entering and engaging in the practice of law. Therefore, the very existence of CSOGID is encouraged, even created, by the generous donations of State Bar members.

Second, to return to the question of "why", let me test your patience with a few statistics: The National Coalition of Anti-Violence Programs (NCAVP) 2004 report noted a 4% increase in reported incidents of anti-LGBT violence, from 1,720 in 2003 to 1,792 in 2004. During 2004, the total number of victims rose 4%, from 2,042 in 2003 to 2,131 in 2004. According to the report, the number of anti-LGBT violence offenders also rose by 7%, from 2,467 to 2,637 (see <http://CivilRights.org>). Violence against LGBT persons are deemed hate crimes, which results in enhanced penalties when convicted. It was lawyers who drafted, advocated for and succeeded in getting such legislation passed. It is lawyers who enforce this law today.

Our only protection against mob rule is the law. Every citizen has to know, has to believe, that he or she can find justice at the courthouse door. Without that belief, anarchy reigns. I am an African-American, a Rhode Island yankee, a Catholic, a Navy brat, a Gay male, and a citizen of the United States of America. None of these characteristics should deprive me of due process or equal protection of the law. But there can be neither due process nor equal protection without fair and equal access to the court system.

While non-LGBT attorneys can advocate for our rights, only LGBT attorneys can fully appreciate and understand our perspective when denied employment, housing, education, benefits or safety because of sexual orientation or gender identity. Our Best Practices subcommittee is developing and distributing materials to assist law firms and corporations in the recruitment and

retention of LGBT attorneys. Our Outreach subcommittee is engaged in efforts to network with community bar associations and organizations to provide a resource and support for community attempts to ensure a fair and balanced legal system. Our Communications subcommittee is compiling and distributing pamphlets on rights (and responsibilities) of transgendered individuals and domestic partners, and legal recourse if you've been a victim of violence.

An informed bar, and for that matter, an informed public, should not and will not tolerate the violence reflected in the above statistics. In performing its mission of ensuring that access and fairness exist for LGBT attorneys in the legal profession in California, CSOGID helps to raise that level of awareness that will eventually stem the growth of violence.

It has been an honor and privilege for me to serve as chair of this group of very competent and dedicated individuals. I only regret that so much remains to be done, but I am very confident that those I leave behind are more than capable of meeting the challenges that lie ahead. This is, after all, why CSOGID exists.

GET INVOLVED WITH THE STATE BAR!

You, too, can join in on the excitement by volunteering for one of the Access & Fairness Committees or any of the State Bar committees, commissions, or sections.

The State Bar is committed to ensuring that all attorneys in California have equal access to the legal profession. One of the key tenets of the State Bar's Mission Statement is to "assure the full and equal opportunity of all persons for entry and advancement in the legal profession." Consistent with this mission, the State Bar encourages every member to become involved in activities and committees aimed at achieving a diversified membership. The best way to become involved is to become a member of one of the Access & Fairness Committees described throughout this Newsletter. Committee members served for a three year term and meet four to six times a years.

The Appointments Applications will be available online September 11, 2005. Hard copies will be available at the Annual Meeting in San Diego. Applications are due February 1, 2006. Information about each committee, qualifications necessary for service and the application form can be found on the State Bar's website: www.calbar.ca.gov.

QUEER VOIR DIRE BY JEFFREY W. ERDMAN, ESQ.

Did you know that the Judicial Council of California recently changed the manner in which voir dire is to be conducted in California? In a major overhaul of the voir dire process, the Judicial Council set out to eliminate the potential of bias and insensitivity that existed for gay and lesbian jurors under the old system. Specifically, the Judicial Council revised Sections 8 and 8.5 of the Standards of Judicial Administration, which govern the manner in which prospective jurors are examined for civil and criminal cases. Additionally, the Judicial Council revised form MC-001, the Civil Juror Questionnaire that may be used pursuant to Code of Civil Procedure section 205 (in the court's discretion) when questioning prospective jurors.

Background for Changes:

In 1998, the Sexual Orientation Fairness Subcommittee of the Judicial Council's Access & Fairness Advisory Committee began developing a survey to examine fairness and sexual orientation in the California Courts – the first survey of its kind in the country. The survey was conducted in recognition of the need to ensure fairness for gay men and lesbians who are involved with the California court system as judges, attorneys, court users, and court employees. In January 2001, the subcommittee presented its final report, *Sexual Orientation Fairness in the California Courts*, which contained the survey findings and the subcommittee's recommendations to the Judicial Council. (A full copy of the report may be obtained online at "www.courtinfo.ca.gov/reference.")

At that time, the Judicial Council unanimously accepted the report and its 21 recommendations. One recommendation was that "[t]he advisory committee, in conjunction with other appropriate organizations, will develop sample questions for voir dire that appropriately address the issues of domestic partnership and sexual orientation." Naturally, implementation of this recommendation required amendment to Sections 8 and 8.5 of the California Standards of Judicial Administration and form MC-001, which govern the voir dire process.

In fact, the traditional questions about "marital status" in the prior versions of Sections 8 and 8.5 and form MC-001 reinforced an assumption that individuals were either "married" in the heterosexual sense or they were "single." Prospective jurors, whose life is not described by those categories, often felt stigmatized by being questioned in this manner, and the question did, unintentionally or intentionally, create the perception of bias against such individuals. In addition, as originally phrased, the marital question undermined the credibility of the judicial process in several ways. First, it deprived the court and the lawyers of valuable information about relationships (including heterosexual relationships) that was needed to ensure a fair jury selection or court process. Second, it placed gay or lesbian jurors in the untenable situation of either disclosing their sexual orientation or answering the question narrowly and specifically in the terms asked, requiring them to give incomplete answers about the reality of their lives. Third, it created a perception among gay and lesbian court users that their subsequent treatment in the court process may not be fully informed or fair. As one survey respondent noted: "All prospective jurors were only asked about marital status. I have been in a monogamous relationship 33 years and consider myself married. It would have been wrong to deny my relationship, but it would have been legal to do so." (See page 30 of the *Sexual Orientation Fairness in the California Courts: Final Report of the Sexual Orientation Fairness Subcommittee of the Judicial Council's Access and Fairness Advisory Committee* [January 2001].)

The Changes Made:

Based on the problems highlighted by the sexual orientation bias survey, and on the advice and counsel of various members of our community – including former LGLA Co-President Sam Overton and Jon Davidson from Lambda Legal Defense and Education Fund, the Judicial Council's Sexual Orientation Fairness Subcommittee recommended that changes be made to Sections 8 and 8.5 of the California Standards of Judicial Administration and form MC-001, which were ultimately adopted by the Judicial Council effective January 1, 2004.

The changes (among other things) eliminated direct questions or references regarding a prospective juror's "marital status" and broadened the questioning so as to include questions about "anyone with whom you have a significant personal relationship" in addition to a prospective juror's "spouse." The phrase "anyone with whom you have a significant personal relationship" was expressly defined as meaning "a domestic partner, life partner, former spouse, or anyone with whom you have an influential or intimate relationship that you would characterize as important." For example, under the old rules, a juror was asked: "Have any of you, or any member of your family close friends, to your knowledge, ever sued anyone, or presented a claim against anyone, in connection with a matter similar to this case?" Under the new rules, the question now should be: "Have you, or to your knowledge, any member of your family, a close friend, or anyone with whom you have a significant personal relationship, ever sued anyone, or presented a claim against anyone, in connection with a matter similar to this case?" (See *Standards of Judicial Administration*, § 8(c)(13).)

Likewise, the changes required revision to the longstanding list posted in most courtrooms throughout the state. The old list required a prospective juror to provide their name and "where you live, your marital status (whether married, single, widowed or divorced), the number and ages of your children if any, your occupational history, and the name of your present employer." Prospective jurors were also told: "If you are married, you should also describe briefly your spouse's occupational history and present employer if any." (See former *Standards of Judicial Administration*, § 8(c)(20).) Now, prospective jurors are to be asked to "state your: Name, Children's ages and the number of children, if any; Occupation; Occupational history; and Present employer. And for your spouse or anyone with whom you have a significant personal relationship who lives with you, [state] their: Names; Occupations; Occupational histories; and Present employers." (See *Standards of Judicial Administration*, § 8(c)(20)(i)-(ix).)

Finally, the Judicial Council revised the Juror Questionnaire for Civil Cases (form MC-001) in order to bring the form into conformity with Section 8 of the Standards of Judicial Administration. For example, question 1.17 on the form now asks jurors to provide "all full-time employment of your spouse or any person with whom you have a significant personal relationship" (which was defined as it was in Section 8).

Naturally, it will take time for the courts to fully implement these changes into their everyday routine. But it is important that all Lesbian, Gay, Bisexual and Transgendered (LGBT) attorneys, or attorneys that represent LGBT individuals, encourage the courts to implement the changes whenever possible and/or to report instances in which judges fail or refuse to do so. Only through our own vigilance can we ensure that our court system treats all people with the respect and dignity they deserve.



President Anthony Capozzi; Solomon Mangolini; Jeffrey Wortman, Co-President, LGLA; Judge Robert Takasugi; Victor Hwang; San Diego DA Bonnie Dumanis

2004 Annual Meeting of The State Bar of California

On Saturday evening, October 9, 2004, overlooking beautiful Monterey Bay, over 200 people attended the Third Annual State Bar Diversity Awards Reception. Former Board of Governor and Associate Dean of Whittier Law School, Scott Wylie emceed the ceremony, in an entertaining yet efficient manner. President Anthony Capozzi and San Diego District Attorney Bonnie Dumanis presented the awards to Judge Robert Takasugi (individual attorney category) and Jeffrey Wortman, co-president of Lesbian & Gay Lawyers Association of Los Angeles (bar association category).

President Capozzi noted that, although many under-represented groups have made great progress in the legal profession, there is still much to do. The State Bar Board of Governors has made diversity a key part of its Strategic Plan and its members have generously contributed to the implementation of this goal. Keynote Speaker, Bonnie Dumanis, spoke of her struggles to get elected in San Diego as a judge then as District Attorney. She noted that, even though she was openly a lesbian in a conservative town, she succeeded, elected as a Municipal Court Judge, as a Superior Court Judge, and as the District Attorney because she demonstrated her integrity and consistency in pursuing excellence throughout her career.

DIVERSITY AWARDS RECEPTION



Chief Justice Ronald George

The selection of Judge Robert Takasugi, Judge of the U.S. District Court in Los Angeles, was one of many honors bestowed upon him throughout his career and merely underscored his lifelong path towards equality and justice. His strong sense of values was perhaps awakened when, as a twelve year old, he and his family were told to vacate their home in Tacoma, Washington, and relocate to an internment camp in Tule Lake, California. Since then, he has consistently fought to include law students and attorneys of color in clerkships and externships. The primary reason for his selection as the individual attorney most deserving of the 2005 Diversity Award is the recognition that for 28 years he has, on a pro bono basis, provided a bar review course for diverse attorneys who failed the bar exam. As a result, and with a 90 percent pass rate, Judge Takasugi has been directly responsible for increasing diversity in the legal profession. In accepting the award, Judge Takasugi humbly noted while it was an honor to be recognized for conducting his course, it was also an obligation that he was fulfilling. He concluded with the message that our society has a long way to go to fulfill this high ideal.

The Lesbian & Gay Lawyers Association of Los Angeles, selected to receive the Diversity Award in the Bar Association category, has supported and championed the rights of the lesbian, gay, bisexual, and transgendered legal community for 25 years.

Some of their many activities include judicial endorsements, amicus briefs, participation in the Conference of Delegates, providing education, networking and social opportunities for its members, offering scholarships, mentoring, and collaborating with multicultural and women's bars to improve diversity in the legal profession. Its governing structure also formally observes diversity by requiring co-chairs of both genders, with a Board comprised of 45% women, 5% African American, and 5% legal professionals with disabilities.

The evening ended with a renewed commitment by all to improving diversity in all aspects of the legal profession.



Bonnie Dumanis, Scott Wylie, and Anthony Capozzi

2005 The State Bar of California's Diversity Program "The Many Faces of Diversity"

Co-sponsored by the Judicial Council of California
Access and Fairness Advisory Committee

Saturday, September 10, 2005
2:15 PM to 4:15 PM

The panelists will begin by exploring the various reasons for increasing diversity in the legal profession. The panel will then discuss the implications of diversity and the elimination of bias in the process of recruitment, retention, and advancement in a variety of practice settings including law firms, corporate offices, government offices, the courts, law schools, and nonprofit legal services agencies.

Moderator:

LaDoris Cordell
Stanford University

Panelists:

Hon. James Lambden
First Appellate District, Division Two

Hon. Brenda Harbin-Forte
Alameda County Superior Court

Hon. Fumiko Hachiya Wasserman
Los Angeles Superior Court

Holly Fujie
Buchalter Nemer

James Potter
Del Monte Foods

Bonnie Dumanis
San Diego District Attorney

Cruz Reynoso
UC Davis School of Law

State Bar of California's Fourth Annual Diversity Awards Reception & Awards Presentation "Celebrating Diversity in the Legal Profession"

Honoring Recipients of the 2005 Diversity Awards

Saturday, September 10, 2005
5:45 PM to 7:45 PM
San Diego Marriott Hotel & Marina

Individual Attorney: Guy Rounsaville, Jr.

Bar Association: Southern California Chinese Lawyers Association

Special Presentations:

Hon. Ronald M. George,
Chief Justice California Supreme Court

John Van de Kamp
President, State Bar of California

Hon. Edward M. Chen
Magistrate Judge, U.S. District Court,
Northern District of California

Co-Sponsored by Continuing Education of the Bar, Practising Law Institute, The Rutter Group, and Whittier Law School.

**Registration at Annual Meeting is not necessary.*

**2006 Diversity Awards Nomination Packets
are now available!**

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"ADVICE ON DIVERSITY"

ADVICE FOR ATTORNEYS IN DAY-TO-DAY SITUATIONS

BY A. KIMBERLY PAPILLON TOURE, ESQ.

GETTING A CASE BECAUSE OF YOUR RACE

Dear Kimberly:

I am a second-year associate. A partner invited me into his office and told me that he would like to assign me to a discrimination case where the plaintiff was Asian American. I am Asian American and the partner openly told me that I was being asked to join the team because it seemed clear that the case would go to trial and he wanted me to second chair. "Having an Asian defending the client would make a good impression on the jury," he said. I am not comfortable taking the case, but I do not know what to say to the partner without doing damage to my career.

Sincerely,
Carefully Career-minded

Dear Carefully:

Your firm was planning to use diversity to defeat a cause of action. Your race was being used as a symbol to make an impression on the jury to contrast the true image of the client which is one that may not have been particularly diverse, at least with regard to upper management who made the allegedly discriminatory decision.

You always need to have time to carefully consider these types of decisions that would impact your career. Ask if you can think about the decision overnight. This will allow you to weigh your options outside of the view and pressure of the partner. You must take into account your obligation to the firm to work as part of the team on the projects they assign you. You must also consider the importance of the opportunity to second-chair a trial at such an early point in your career. Conversely, if you feel uncomfortable representing the client in the case both because of the reason you have been selected and because of the nature of the cause of action, then you must skillfully find a way to communicate this to the partner.

You should tell the partner that you do not feel comfortable second-chairing in the trial. You should also say that you think it would have a negative affect on your future marketing efforts. Explain to the partner that many of your business contacts are likely to come from the Asian American business community. Inform him that playing a role in a case against an Asian American could impede your ability to solidify those contacts in your market-base. Explain that representing this client may cause you to be labeled within your market-base as an opportunistic individual who has little regard for the well-being of your community. Almost any partner in a firm will understand the idea of bad business in terms of your marketing and likely respect your position.

However, while this will explain why second-chairing the trial is bad for you, you must still allow the partner to save face with the client who may have specifically requested you. To help in this regard, you may also mention to the partner that many people on the jury may see through his proposed use of your race to create the image that the client does not discriminate. In fact, in particular, people of color on the jury who are acutely aware of the lack of diversity in large law firms may find it obvious and offensive that the firm and the client would assume that they would fall for such a ploy or that the firm and client would use race

to decide who would be on the trial team. In other words his plan could backfire. He may not see this but your description of the potential impression of the jury may further demonstrate the value of your insight as an attorney and a person of color in the firm.

You may decide not to give any further explanation to the partner as to why you feel uncomfortable. But you should analyze your discomfort for your own sense of well-being. The partner is proposing that you use your race to create an illusion. The illusion is that the plaintiff's case must be meritless because a person of his own race is willing to attack him and his claim. Your presence in the courtroom has power, sometimes to other Asian Americans who may see you as a role model, sometimes to non-Asian Americans because your presence (as an Asian American attorney) is novel to them. Your firm is using the ploy of discrimination in order to attack an assertion of discrimination—that should make anyone uncomfortable.

CREAM OR SUGAR?

Dear Kimberly:

Just before a deposition I met opposing counsel for the first time. He had been led into the deposition room by my associate, a Caucasian man. I began to introduce myself but before I could finish opposing counsel said, "Oh great I was waiting for a secretary to come in here. I'm dying for a cup of coffee." I am an African American woman working for a non-profit. I simply informed him that I was not the secretary. There was an awkward silence and then I introduced myself to him.

Later on I kicked myself for not saying something more. What should I have said?

Signed,
Cream or Sugar

Dear Cream or Sugar:

The best course of action is one inspired by confidence and clear communication. Take a deep breath and remove the emotion from your voice (emotional reactions to this type of incident can keep the person on the other end from hearing a single word you are saying, they will focus instead on your tone and body language instead of your message). Then state clearly, "I am not a secretary (while its an honorable profession) I am an attorney for the agency. I don't know what could have given you any other impression but I am sure that you won't make the same mistake again." If you want to add some levity to the situation you may say, "If you agree to not ask me for coffee then I will agree not to ask you for the morning mail."

The opposing counsel responded to a stereotype and failed to consider the possibility that you, as an African American woman would be sparring with him during a deposition. His assumption gives you an insight into this personality. He is quick to offend and slow to catch on and this is to your advantage. His willingness to stereotype may also mean that he will underestimate you as a professional. He may presume that you are ill-prepared, undereducated or unskilled all based on his stereotypes of African Americans. Be sure to give significant attention to the case to take advantage of his assumptions. Be careful not to be distracted by his prejudice by trying to impress him or convince him that you are different from the stereotype. That strategy will only drain your energy and waste your time.

In the future, one of the best ways to make sure you are not stereotyped is to walk into a deposition or meeting with your business card in-hand. Hand the business card to the other person in the room before or as you introduce yourself. This will give them the immediate message about your role in the relationship. While this does not stop them from expressing their prejudice, it does prevent them from stereotyping you.

DISTINCTLY DIFFERENT



BY DIANE L. ABRAHAM
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School of Law

What our profession looks like is not news: According to the latest U.S. Equal Employment Opportunity Commission's 2003 Executive Summary, the legal community continually fails to reflect the general population. Currently, African American attorneys make up 4.4% of practicing attorneys; Hispanics are 2.9% of the legal profession, and Asian Americans comprise 5.3%. This picture isn't merely a foggy, steamed-up mirror; it is a distortion of what our professional community should look like. While the past decade has witnessed a full-fledged war towards diversity, with leaders of the mainstream organized bar, civil rights activists and progressive corporate leaders joining to create a legal profession that looks more like 21st century America, there is another challenge. The question is: Can traditionally under-represented groups of attorneys realize the potential that the difference being different makes, and if so, why?

It is said that whatever white men in the legal profession have done to make pathways for rainmaking and sow business opportunities, women lawyers and attorneys of color have to do more and do it better. Jacob Herring of Creative Cultural Changes, LLC (Ashland, Oregon) invites attorneys who must travel the professional terrain twice (if not more) as far and fast to "look at things differently, utilize opportunities differently....[by] going outside their own groups, often into worlds where they are not altogether comfortable." (ABA Journal, April 2003).

How do you make the most of being "different" in the legal profession? With honesty, creativity and strategy, attorneys who have a different face from the white male majority, can access opportunities in ways that white male lawyers cannot.

For instance, Randy Eaddy, an African American securities attorney in Atlanta, GA, says that standing out at a program, or within an organization, even if standing out is due to race or gender, can be an advantage. "We are still at a point in our society where seeing certain people doing certain things is a novelty in some places...If someone says 'I heard this black lawyer give an interesting talk...and that person would not have made the comment if it had been a white lawyer speaking, it shouldn't matter from a business perspective. Anytime a favorable report is being spread to a larger group, you have benefited in your long-term plan to develop business.'" (ABA Journal, April 2003).

At a recent 'diversity' CLE program sponsored by the Bar Association of San Francisco, Vice Chair of the California State Bar's Ethnic Minority Relations Committee, Jane Kow, discussed how she turns her ethnicity into a 'plus' factor for her clients. Ms. Kow practices employment law, largely representing the employer in claims made by employees, who are often persons of color.

Her ethnic background provides a credibility bridge with the employees, resulting in favorable outcomes and satisfied clients. Similarly during the same program, Vincent Ruiz, a partner in the firm Guitierrez-Ruiz, LLP, discussed how his heritage and bilingual skills assist his rainmaking abilities, landing him Mexican institutional clients, thereby carving a special practice niche.

Taking advantage of standing apart is a method for success for under-represented groups. But converting standing out into outstanding opportunities is not always easy, natural or even something one is willing to do. Why? Because successful attorneys of color ---as well as women--- have a line to toe which is exaggerated from their male Anglo lawyer kin. They are expected by both the "majority" (or white) community and the communities of color to stand as a model, a symbol of success, for the entire race or ethnic group. This 'visibility rationale' is thus clarified: There are so few women and even fewer persons of color in high positions, or those of leadership and power, that those who are must be outspoken role models. There is only one Condoleezza Rice, only one Vernon Jordan, only one Dennis Archer and Robert Grey. . .and the list in California could go on.

Using what is different about one's genetic makeup to make a difference in the diversity battleground for the legal profession often falls disproportionately on attorneys of color. It is usually expected that ethnic minorities who choose to practice law will also rise to the bully pulpit to preach the diversity sermon. But when an Anglo attorney dons the preacher's robe and loudly rises to advocate diversity - that also is decidedly using difference to make a difference. As the only Anglo on the Ethnic Minority Relations Committee and often the "only" empanelled white on the many diversity CLE programs, I am, distinctly different. Although my longtime friends with the American Bar Association say I'm just a sister born white, I can, and do, use my genetic predisposition to make changes: After all, who better to reach across the room to unsuspecting and non-progressive white males and advocate for change?

We are all full-fledged warriors in the battle for equal opportunities for recruitment, promotion, retention and elevation to the highest reaches of the profession, no matter what our 'difference' is. The key is using your difference to make differences to tear down walls of preconceptions and build bridges of greater advocacy and understanding.

Judge Alice A. Lytle Receives Rose Bird Award



Judge Alice A. Lytle

By Grace J. Bergen
CWIL Member

At a moving presentation held in Sacramento, California on March 18, 2005, retired Sacramento Superior Court Judge Alice A. Lytle received the prestigious Rose Bird Memorial Award from California Women Lawyers at their Fifth Annual Northern California Judicial Reception. CWL created this award in 2000 to honor Chief Justice Rose Bird, a founding member of California Women Lawyers and the first female Chief Justice of the California Supreme Court. The award honors judges for judicial excellence, public service, and inspiration to women lawyers.

Like Rose Elizabeth Bird, Judge Lytle is a strong advocate for equal access to justice, a role model and mentor for California women attorneys, and an inspiration to all who know her. As discussed by the many speakers at the reception, Judge Lytle is a warm, courageous, and compassionate individual, devoted to public service, who possesses all of the special qualities for which Rose Bird is remembered. She has demonstrated unwavering leadership and commitment to social justice in her career and in her community.

From Harlem to Sacramento

Martin Morgenstern, Special Assistant to the Office of the President of the University of California and long time friend and associate of Judge Lytle, spoke about her life as one of ten children growing up in Harlem, New York. She was the first in her family to graduate from college, receiving a BA in public health and physiology from Hunter College of New York. "I wanted to be the world's greatest epidemiologist," said Alice Lytle. She worked as a research technician at the Albert Einstein College of Medicine, Yeshiva University before moving to California to work in the pediatric cardiology department at the University of California San Francisco Medical Center.

Judge Lytle's passion for civil rights stemmed from her admiration of the work of Rev. Martin Luther King, Jr. "In 1968, Martin Luther King died," she noted, "and that fact changed my whole life somehow." She decided to attend law school with the goal of becoming a civil rights lawyer, and she received her Juris Doctorate degree from Hastings College of the Law in 1973.

First African-American Women to Serve on Sacramento Bench

Judge Lytle became the first African-American woman to serve on the Sacramento County bench when Governor Brown appointed her to the Sacramento Municipal Court in 1982. She served as the Presiding Judge of the Municipal and Juvenile Courts and presided over dependency and delinquency cases from 1992 to 1998.

As the presiding judge of the Juvenile Court, Judge Lytle constantly used her influence to improve the system. She participated in the creation of the "SacaMentor" program — a mentoring program to assist juvenile delinquents, and she helped establish the Healthy Teen Mothers Program and the Birthing Project, an outreach and mentoring program for first-time expectant mothers.

Establishes "La Casita," Children's Waiting Room

In her twenty-year career on the bench, Judge Lytle became widely respected not only for her wisdom and compassion in dispensing justice, but also for her commitment to resolving problems with access to justice in the courthouse and the larger community. Judge Lytle may be the first person in the country to establish a "children's waiting room" in a courthouse. Judge Lytle recalls that she had the idea for the room, called "La Casita," when her bailiff brought into her chambers a woman and child who been confronted in the courthouse cafeteria by the defendant in their case. She began to allow children to hang out in her chambers and brought toys for them to play with. Eventually, she talked the police officers into relinquishing their room in the courthouse to create La Casita, which provided a safe and inviting place for children to wait and engage in supervised play or learning experiences, rather than have to observe their parents appear as parties in criminal court or as civil litigants. The San Francisco Women Lawyers Alliance emulated her example and created a children's waiting room in the Hall of Justice. It proved so satisfactory that the judges of that court insisted on a similar waiting room in the new courthouse, then under construction.

Strong Proponent of Access to Justice

Judge Lytle strongly believes in the concept of being "one's brother or sister's keeper" and that "the duty to care for one another is common to all of us, imposed by moral obligation, ethical duty and/or religious beliefs." Windie Scott, former State Bar Board of Governor, who serves as Deputy State Controller to Steve Westly, has said, "Alice is a legend in Sacramento and a true example of the legal system being a partner in the community it serves."

Judge Lytle was instrumental in increasing accessibility to the courts for all litigants through her work on local and statewide multidisciplinary committees on accessibility, including making interpreters more available in the courtroom, increasing effective communication with self-represented litigants through leading the Sacramento Superior Court's Self-Represented Litigants Team, and serving on the Judicial Council's Self-Represented Litigant's Task Force. Judge Lytle also served on the Judicial Council's Gender Bias Committee, whose charge was to identify and seek to eliminate gender bias in the courts.

Although now retired, Judge Alice Lytle continues to speak to bar groups and women's groups, urging us to "do well by doing good," and to become involved in making a difference in our profession and our communities. She is truly a mentor, role model, and inspiration for the women lawyers of California. To quote Windie Scott, "I can think of no one more deserving of this award, and I know that Judge Lytle is honored to receive recognition bestowed in the name of her good friend, Justice Rose Bird."

Professional Awards:

- The San Francisco Women Lawyers Alliance awarded her its first Crystal Gavel Award for Jurist of the Year in 1989
- In 1994, Judge Lytle was the first recipient of Women Lawyers of Sacramento's highest honor, the Frances Newell Carr Award, established and awarded annually to an individual who has achieved professional excellence in her career, served our community, assisted women in pursuit of their careers, and personally advanced opportunities for women in law.
- On November 25, 2002 on the occasion of her retirement, Governor Gray Davis recognized Judge Lytle as a model of leadership and professional excellence in a letter of commendation.
- November 22, 2003 was named Alice Lytle Day in three cities — in San Francisco by Mayor Willie Brown, in Oakland by Mayor Jerry Brown, and in Sacramento by council member Lauren Hammond.

LEADERSHIP ACADEMY

Access & Fairness Leadership Academy Graduates Twelve Scholars



*Graduating Scholars:
York Chang, Kristen Jackson,
and Joel Villaseñor*



*Academy Scholars: Pablo Escobar, Los Angeles, Regina Brown,
Elk Grove, Sandeep Baweja, Los Angeles, Connie Merriett, San
Francisco, Arthur Bowie, Sacramento, Dustin Johnson,
Modesto, Patricia Massey, San Jose, Dien Le, Westlake Village,
Michelle Lillienfeld, Pacoima, Mark Lemke, Los Angeles,
Phong Sara Wong, Los Angeles, Heather Zakson, Culver City*

The first class of the State Bar's Access & Fairness Leadership Academy graduated during a reception in San Francisco on June 3, 2005 in conjunction with the State Bar's 2005 Spring Summit – Pathways to Justice. State Bar President John Van de Kamp delivered an inspirational message on being a leader as each Scholar was acknowledged. The twelve Academy Scholars, selected for their leadership potential, completed a one-year, four training session program. The program included training modules on identifying leadership skills, developing their own individualized leadership style, strategic planning, team building, and leading in a diverse environment.

In addition, the State Bar welcomed twelve new Academy Scholars, all members of The State Bar of California, who were selected for their potential for leadership and vision to serve or further serve local and underserved communities.

The twelve new Scholars are Sandeep Baweja, Los Angeles; Arthur L. Bowie, Sacramento; Regina Brown, Oakland; Pablo R. Escobar, Los Angeles; Dustin Johnson, Modesto; Dien Le, Westlake Village; Mark A. Lemke, Los Angeles; Michelle J. Lillienfeld, Pacoima; Patricia A. Massey, San Jose; Connie E. Merriett, San Francisco; Phong Sara Wong, Los Angeles; and Heather S. Zakson, Culver City. The scholars continue their training at the upcoming State Bar 78th Annual Meeting in San Diego.

Applications for the next round of Leadership Academy Scholars will be available in the fall of 2005.

TIPS TO LEADERSHIP ACADEMY SCHOLARS

State Bar President addressed the two classes of Leadership Academy scholars on June 3, 2005, at a reception honoring the graduating class of scholars and welcoming the new class. As part of their training, they received the following words of wisdom from Mr. Van de Kamp, a successful California Attorney General and current partner at the Los Angeles law firm of Dewey Ballantine, LLP. In order to lead, he advised the young attorneys to:

- Take Advantage of Your Education–Never Stop Learning
- Develop Your Core Competency
- Work Hard--Have Core Values--Truthfulness, Honesty and Integrity Are Keys
- Set An Example By Your Work Habits
- Learn Your Strengths
- Know Your Weaknesses
- Never Fear Those Who Are Smarter Than You Are
- Make Up For Your Weaknesses By Gathering Those Around You Who Will Make Up For Your Weaknesses
- Learn To Communicate:
 - Clearly
 - Orally
 - In Writing--Keep Working At It

- Learn To Compete In Such A Way That Whether You Win Or Lose--You Gain The Respect Of Those You Compete Against
- Value Team Working Skills--And Putting Strong Teams Together--Not Just Lawyers But Support Personnel As Well
- Re-energize Those Around You--Be Generous In Crediting Others
- Share In Your Victories--Professional And Support Staff.
- Take Personal Responsibility For Your Defeats
- Learn From Your Setbacks--The Lessons From Those Will Be Better Than From Your Victories
- Look For New Ideas: Never Be Afraid Of Them--Whatever The Source
- Most Of The Good Ideas We Have Come From Others And Are Grafted Into The Needs Of The Present
- Be Analytical. For Every Great New Idea--There Will Probably Be 10 That Should Be Rejected
- Be Humble: Remember Where You Came from – And Continue To Ask Yourself How You Want To Be Remembered
- Dare To Succeed. If You Don't, It's Doubtful You'll Succeed --And If You Dare And Fail, You'll Never Regret For Having Tried

DIVERSITY

STARTS AT THE TOP
...AND THE BOTTOM

Continuation from front page

More can be done, particularly in targeting schools with heavy minority populations. As I have learned, there's a lot to choose from.

I urge every bar association to pick a program that best fits its capacity. While increasing diversity is not the only benefit from these programs, consideration should always be given to it as a principal component.

Diversity goals will not be met overnight. But over time if we work steadily, we can change the faces of the profession. In my professional career I've seen the striking progress that women have made in the profession. It offers hope that progress can be made elsewhere.

When the State Bar conducts its next demographic study, I expect to see numbers better reflecting our state population.

I look forward to seeing you in San Diego at our 78th Annual Meeting on September 8 through 11, 2005.

[John Van de Kamp](#), President of The State Bar of California, 2004-2005

NEWS & EVENTS

September 8, 2005, **California Women Lawyers 31st Annual Dinner**, at the San Diego Marriott Hotel & Marina

September 8-11, 2005, **The State Bar of California 78th Annual Meeting**, San Diego Marriott Hotel & Marina

October 5 & 6, 2005, **California Minority Counsel Program**, 16th Annual Business Development Conference, "New Heights for Diversity", Marriott Los Angeles

October 16-20, 2005, **Hispanic National Bar Association**, 30th Annual Convention, "Unidos en Washington, D.C.", Mandarin Oriental Hotel

October 20, 2005, **Minority Bar Coalition**, "Unity Reception", 5:30-7:30 p.m., Morrison & Foerster, San Francisco

October 20-23, 2005, **National Asian Pacific American Bar Association**, 17th Annual NAPABA Convention, "Forging Ahead, Shaping Our Future", at the Hyatt Regency Chicago

October 27-29, 2005, **National Lesbian and Gay Law Association**, 2005 Lavender Law Conference, San Diego

November 2, 2005, **Minority Corporate Counsel Association**, "6th Annual Creating Pathways to Diversity Conference", 8:00 a.m.-5:15 p.m., New York Marriott Marquis Hotel

January 15, 2006, **State Bar Center for Access & Fairness, Leadership Academy Applications Deadline**

February 1, 2006, **State Bar Access & Fairness Committees Application Deadline**

March 15, 2006, **The State Bar Awards Nomination Deadline**, including President's Pro Bono Service Awards, Loren Miller, Jack Berman, and Diversity Awards

May 4-7, 2006, **California Association of Black Lawyers**, Convention at Oakland Marriott City Center

June 2 & 3, 2006, **The 2006 State Bar Spring Summit – Diversity Summit**, location to be announced.